

Appl. No. 10/821,052
Amdt. date July 19, 2006
Reply to Office action April 19, 2006

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REMARKS

Please reconsider the application in view of the above amendments and the following remarks. Applicants thank the Examiner for carefully considering this application.

Claims 1, 4-11 and 14-18 are in this application. Applicants have amended claim 10 in this response as advised by the Examiner. Amendments to the stated claims are in an attempt to further define and clarify the claimed invention. Applicants have canceled claims 2, 3, 12 and 13.

Claim Objection

Claim 10 was objected to because of informalities. Applicants have amended this claim to corrected informalities.

Claim Rejections

Claims 1, 6-9, 11 and 15-18 are rejected under 35 USC 103(a) as being unpatentable over Gandhi et al. (US 20020026624) in view of Sauter et al (US 20040209623) Applicants respectfully traverse the Examiner's assertion.

Applicants' invention describes is a method and system that determines the connection availability of a mobile or cellular device to the communication network in the current location of the mobile or cellular device. The system of the present invention monitors the current connection capacity of the tower. This monitoring process would involve establishing the maximum call connection capability of the tower. This process also maintains a current count of the number of calling devices that are connected through the tower. As the number of connections increases toward the maximum number of connections, the tower will begin to broadcast messages to mobile and cellular telephone devices in the area of the tower the current connection capability to that tower. The mobile or cellular devices would receive the message and display the information to the device user. With this information, the user could decide whether to continue to

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attempt to call via the tower or to wait to a later time or until the caller is in another area than the current calling tower.

Sauter describes a public land mobile network comprising a base station, which broadcasts a signal to all subscribers comprising selected access classes, which are barred from access to the network upon receipt of the signal. The load condition of the network is checked in regular time periods, and the number of barred access classes is increased or decreased dependent on whether a load threshold value is exceeded or not. Each time period is divided in a plurality of sub-intervals in which a rotation of the selected access classes is made to evenly distribute the bar to access onto the plurality of subscribers.

Examiner cites Gandhi et al (US 20020026624) in combination with Sauter. However, this patent application publication does not appear to be related to the technology of Applicants' present invention. Further, the on this cited reference is Yusaku Ono. This reference does not have an inventor named Gandhi. This reference is listed by the Examiner on the 'Notice of References Cited' page. However, no reference for the inventor Gandhi appears on this Notice of References Cited page or the references cited page of the previous office letter dated November 2, 2005. Applicants' did realize that there is likely to be a mistake in this citation. As a result, Applicants did attempt to identify published applications with Gandhi as a named inventor and with subject matter that may be related to Applicants' present invention. Applicants did identify two applications that possibly had related subject matter. However, a review of the applications did not produce sections and drawings that corresponded to the sections and figures that the Examiner cited from the "Gandhi" reference. In view of the material contained in the cited reference, that nothing in Gandhi (20020026624) teaches or suggests the combining of Gandhi with Sauter to produce Applicants' present invention. To establish a prima facie case of obviousness, there must some teaching or suggestion to combine the references. Therefore, Applicants assert that there is no establishment of prima facie obviousness as a result of a combination of Gandhi with Sauter.

Claims 4, 5, 10 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gandhi in view of Sauter et al. and further in view of Orlanmunder et al. (US 6,215,770). The examiner asserts that the combination of Gandhi and Sauter discloses

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the method as described in claim 1 and 11 but fails to specifically disclose displaying the broadcasted message to a wireless device in the area of the tower. The examiner further states that Orlanmunder teaches a method of transmitting an overload message to a terminal in response to an event of insufficient capacity to establish a connection. In addition to the previous explanation regarding Gandhi, Orlanmunder teaches a method of detecting an overload, sending a message to the terminal requesting a connection and then initiating an alternative connection establishment of the requested connection through another second communication network after receipt of an acknowledgement from the requesting terminal. Orlanmunder broadcasts a message to a particular terminal that is requesting a connection. Further, this message is broadcast as a query in order to get a response from the terminal. Because of the query for a response, the message of Orlanmunder is in the form of a text or voice message.

Applicants' present invention does not broadcast connection availability to a specific caller in response to an attempt of the caller to connect to another wireless device. Applicants' method does not broadcast a message as part of a larger system that attempts to establish a connection through an alternate network when the primary network is at an overload state. Third, the broadcast message of the present invention is actually a signal that is received by a calling device. Fourth, the signal message of the present invention can be displayed via an icon 31 (Figure 3) that is one the display. In addition, Applicants' present invention can convey the information in various sequences depending on the extent of the available capacity. Although Orlanmunder sends a message to the caller terminal, Orlanmunder does not teach suggest the transmission, receipt and display of a message as described by Applicants' present invention. To establish a prima facie case of obviousness, there must some teaching or suggestion to combine the references. Applicants further submit that there is no teaching or suggestion to combine Orlanmunder with Gandhi and Sauter to produce Applicants' present invention. Applicants further submit that because of the inapplicability of Gandhi as cited in the Examiner's letter, it is not obvious to combine the references as suggested by the Examiner to produce Applicants' present invention.

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In view of the above explanation, Applicants respectfully submit that none of the art of record (alone or in combination) teaches, discloses or even suggests the invention as recited in each of Applicant's claims. Applicant further submits that all of the pending claims are in condition for allowance. Withdrawal of the rejections and passage to issuance is respectfully requested. Applicant believes this reply to be fully responsive to all outstanding issues and place this application in condition for allowance. If this belief is incorrect, or other issues arise, do not hesitate to contact the undersigned at the below listed telephone number.

Respectfully Submitted,



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